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ENROLLED HOUSE BILL NO. 4910

AN ACT to amend section 1 of chapter I of Act No. 175 of the
Public Acts of 1927, entitled as amended
“The code of criminal procedure,”
as amended by Act No. 67 of the Public Acts of 1988, being sec-
tion 761.1 of the Michigan compiled laws; and to add section 37a
to chapter VII.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 1 of chapter I of Act No. 175 of the
2 Public Acts of 1927, as amended by Act No. 67 of the Public Acts
3 of 1988, being section 761.1 of the Michigan Compiled Laws, is
4 amended and section 37a is added to chapter VII to read as
5 follows:

CHAPTER I

Sec. 1. As used in this act:

(a) "Person", "accused", or a similar word means an individual, or unless a contrary intention appears, a public or private corporation, a partnership, a an unincorporated or voluntary association.

(b) "Act" or "doing of an act" includes "omission to act".

(c) "Property" includes any matter or thing upon or in respect to which any offense may be committed.

(d) "Indictment" means ~~an~~ 1 of more of the following:

(i) AN indictment. ~~—~~

(ii) AN information. ~~—~~

(iii) A presentment. ~~—~~

(iv) A complaint. ~~—~~

(v) A warrant. ~~—, and any other~~

(vi) A formal written accusation. ~~—and, unless—~~

(vii) UNLESS a contrary intention appears, ~~means any~~ A

count ~~thereof~~ CONTAINED IN ANY DOCUMENT DESCRIBED IN SUBPARAGRAPHS (i) THROUGH (vi).

(E) "Writing", "written", or a similar term refers to words printed, painted, engraved, lithographed, photographed, copied,

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22 traced, or otherwise made visible to the eye.

23 (f) "Magistrate" means a judge of the district court or a
24 judge of a municipal court. Magistrate does not include a dis-
25 trict court magistrate, except that a district court magistrate
26 may exercise the powers, jurisdiction, and duties of a magistrate
27 ~~where explicitly~~ IF SPECIFICALLY provided in this act, in the

1 revised judicature act of 1961, Act No. 236 of the Public Acts of
2 1961, as amended, being sections 600.101 to 600.9947 of the
3 Michigan Compiled Laws, or in any other statute. This definition
4 does not limit the power of a justice of the supreme court, a
5 circuit judge, or a judge of a court of record having jurisdic-
6 tion of criminal cases under this act, or deprive him or her of
7 the power to exercise, in his or her discretion, the authority of
8 a magistrate.

9 (g) "Felony" means a violation of a penal law of this state
10 for which the offender, upon conviction, may be punished by death
11 or by imprisonment for more than 1 year, or an offense expressly
12 designated by law to be a felony.

13 (H) "Misdemeanor" means a violation of a penal law of this

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14 state ~~which~~ THAT is not a felony, or a violation of an order,
15 rule, or regulation of a state agency that is punishable by
16 imprisonment or by a fine that is not a civil fine.

17 (j) "Ordinance violation" means either of the following:

18 (i) A violation of an ordinance or charter of a city, vil-
19 lage, township, or country that is punishable by imprisonment or
20 by a fine that is not a civil fine.

21 (ii) A violation of an ordinance, rule, or regulation of any
22 other governmental entity authorized by law to enact ordinances,
23 rules, or regulations punishable by imprisonment or by a fine
24 that is not a civil fine.

25 (k) "Minor offense" means a misdemeanor or ordinance
26 violation for which the maximum permissible imprisonment does not
27 exceed 92 days and the maximum permissible fine does not exceed

1 \$500.00 and includes a violation of ~~an act listed~~ DESCRIBED in
2 section 9f(2) of Chapter IV for which the maximum permissible
3 penalty does not exceed 92 days in jail and a fine.

4 (l) "Prosecuting attorney" means the prosecuting attorney
5 for a county, an assistant prosecuting attorney for a county, the
6 attorney general, the deputy attorney general, an assistant
7 attorney general, a special prosecuting attorney, and OR, in
8 connection with the prosecution of an ordinance violation, an
9 attorney for the political subdivision or governmental entity
10 which enacted the ordinance, charter, rule or regulation upon
11 which the ordinance violation is based.

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- 12 **(m) “Judicial district” means the following:**
13 **(i) With regarding to the circuit court, the county.**
14 **(ii) With regard to the recorder’s court of the city of**
15 **Detroit, the city of Detroit.**
16 **(iii) With regard to municipal courts, the city in which the**
17 **municipal court functions or the village ~~which is~~ served by a**
18 **municipal court pursuant to section 9928 of the revised judica-**
19 **ture act of 1961, Act No. 236 of the Public Acts of 1961, being**
20 **section 600.9928 of the Michigan Compiled Laws.**
21 **(iv) With regard to the district court, the county, dis-**
22 **trict, or political subdivision in which venue is proper for**
23 **criminal actions.**
24 **(n) “Complaint” means a written accusation, under oath or**
25 **upon affirmation, that a felony, misdemeanor, or ordinance**
26 **violation has been committed and that the person named or**
27 **described in the accusation is guilty of the offense.**

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1 (o) “Clerk” means the clerk or a deputy clerk of the court.

2 (p) “Federal law enforcement officer” means an officer or
3 agent employed by a law enforcement agency of the United States
4 government whose primary responsibility is the enforcement of
5 laws of the United States.

6 (q) “Jail”, “prison”, or similar word includes a juvenile
7 facility in which a juvenile has been placed pending trial under
8 section 27a of chapter IV.

9 (r) “Juvenile” means a person within the jurisdiction of the
10 circuit court under section 606 of THE REVISED JUDICATURE ACT OF
11 1961, Act No. 236 of the Public Acts of 1961, being section
12 600.606 of the Michigan Compiled Laws, or within the jurisdiction
13 of the recorder’s court of the city of Detroit under section
14 10a(1)(c) of Act No. 369 of the Public Acts of 1919, being sec-
15 tion 725.10a of the Michigan Compiled Laws.

16 (s) “Juvenile facility” means a county facility, institution
17 operated as an agency of the county or the juvenile division of
18 the probate court, or a state institution or agency described in
19 the youth rehabilitation services act, Act No. 150 of the Public
20 acts of 1974, being section 803.301 to 803.309 of the Michigan
21 Compiled Laws, to which a juvenile has been committed under
22 section 27a of chapter IV of this act.

23 (T) “TAKEN”, “BROUGHT”, OR “BEFORE” A MAGISTRATE OR JUDGE
24 FOR PURPOSES OF CRIMINAL ARRAIGNMENT OR THE SETTING OF BAIL
MEANS

25 EITHER OF THE FOLLOWING:

26 (i) PHYSICAL PRESENCE BEFORE A JUDGE OR DISTRICT COURT
27 MAGISTRATE.

1 (ii) PRESENCE BEFORE A JUDGE OR DISTRICT COURT MAGISTRATE BY
2 USE OF 2-WAY CLOSED CIRCUIT TELEVISION.

3

CHAPTER VII

4 SEC. 37A. (1) UNLESS THE DEFENDANT REQUEST PHYSICAL PRES-
5 ENCE BEFORE THE COURT, A JUDGE OR DISTRICT COURT MAGISTRATE MAY
6 CONDUCT INITIAL CRIMINAL ARRAIGNMENTS AND THE SETTING OF BAIL BY
7 2-WAY CLOSED CIRCUIT TELEVISION COMMUNICATION BETWEEN A COURT
8 FACILITY AND A PRISON, JAIL, OR OTHER PLACE WHERE A PERSON IS
9 IMPRISONED OR DETAINED. A JUDGE OR DISTRICT COURT MAGISTRATE MAY
10 CONDUCT INITIAL CRIMINAL ARRAIGNMENTS AND THE SETTING OF BAIL ON
11 WEEKENDS, HOLIDAYS, OR AT ANY TIME AS DETERMINED BY THE COURT.

12 (2) A 2-WAY CLOSED CIRCUIT TELEVISION SYSTEM USED PURSUANT
13 TO THIS SECTION SHALL ENABLE THE ACCUSED AND THE JUDGE OR DIS-
14 TRICT COURT MAGISTRATE TO SEE, HEAR, AND COMMUNICATE WITH EACH
15 OTHER SIMULTANEOUSLY, AND SHALL ENABLE DEFENSE COUNSEL AND THE
16 PROSECUTING ATTORNEY, IF PRESENT, TO BE HEARD BY AND TO COMMUNI-
17 CATE SIMULTANEOUSLY WITH THE ACCUSED, THE JUDGE OR DISTRICT COURT
18 MAGISTRATE, AND OPPOSING COUNSEL.

19 (3) EXCEPT AS OTHERWISE PROVIDED BY LAW, THE PUBLIC SHALL
20 HAVE ACCESS TO THE COURTROOM, WITH THE ABILITY TO VIEW AND HEAR
21 THE PROCEEDINGS.

22 (4) IF PROCEEDINGS CONDUCTED PURSUANT TO THIS SECTION ARE
23 NOT RECORDED BY AN INDIVIDUAL CERTIFIED BY THE STATE COURT ADMIN-
24 ISTRATIVE OFFICE, THE COURT SHALL RECORD AND MAINTAIN AN ORIGINAL
25 AUDIOVISUAL RECORDING OF THE ENTIRE PROCEEDINGS. A RECORDING
26 MADE PURSUANT TO THIS SUBSECTION SHALL BECOME PART OF THE COURT
27 RECORD.

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**1 (5) THIS ACT DOES NOT PROHIBIT THE USE OF 2-WAY CLOSED
2 CIRCUIT TELEVISION FOR ARRAIGNMENTS ON THE INFORMATION, CRIMINAL
3 PRETRIAL HEARINGS, CRIMINAL PLEAS, SENTENCING HEARINGS FOR MISDE-
4 MEANOR VIOLATIONS COGNIZABLE IN THE DISTRICT COURT, SHOW CAUSE
5 HEARINGS, OR OTHER CRIMINAL PROCEEDINGS, TO THE EXTENT THE
6 MICHIGAN SUPREME COURT HAS AUTHORIZED THAT USE.**

**7 Section 2. This amendatory act shall not take effect unless
8 all of the following bills of the 87th Legislature are enacted
9 into law:**

- 10 (a) House Bill No. 4909.**
- 11 (b) House bill No. 4911.**
- 12 (c) House Bill No. 4912.**
- 13 (d) House Bill No. 4913.**